

Before the  
UNITED STATES COPYRIGHT ROYALTY JUDGES  
Library of Congress  
Washington, D.C.

*In re*

Determination of Royalty Rates and Terms  
for Making and Distributing  
Phonorecords  
(Phonorecords IV)

Docket No. 21-CRB-0001-PR  
(2023–2027)

*In re*

Determination of Royalty Rates and Terms  
for Making and Distributing  
Phonorecords  
(Phonorecords III)

Docket No. 16-CRB-0003-PR  
(2018–2022) (Remand)

**GEO’S NOTICE OF INCREASED MONETARY INFLATION OF 7.5%  
PERCENT CPI-U OVER LAST YEAR BY BLS IN BOTH PROCEEDINGS**

Participant George Johnson (“GEO”), a *pro se* Appellant songwriter, respectfully submits this *Notice of Increased Monetary Inflation of 7.5% Percent Over Last Year by BLS in Both Proceedings* to the Copyright Royalty Board.

**U.S. BUREAU OF LABOR STATISTICS CPI-U AT 7.5% PERCENT IN 2022**

On February 10, 2022, The United States Bureau of Labor Statistics (“BLS”) released its regular, monthly inflation data which came in at 7.5% percent<sup>1</sup> over last year and *the largest increase since 1982*. The BLS press release reads:

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<sup>1</sup> <https://www.bls.gov/news.release/pdf/cpi.pdf> February 10, 2022, press release from the United States Bureau of Labor Statistics which determined a 7.5% percent increase in CPI-U inflation over the past 12 months. NOTE: Archived links at <https://www.bls.gov/bls/news-release/cpi.htm#current>

“The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.6 percent in January on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics reported today. Over the last 12 months, the all items index increased 7.5 percent before seasonal adjustment.”

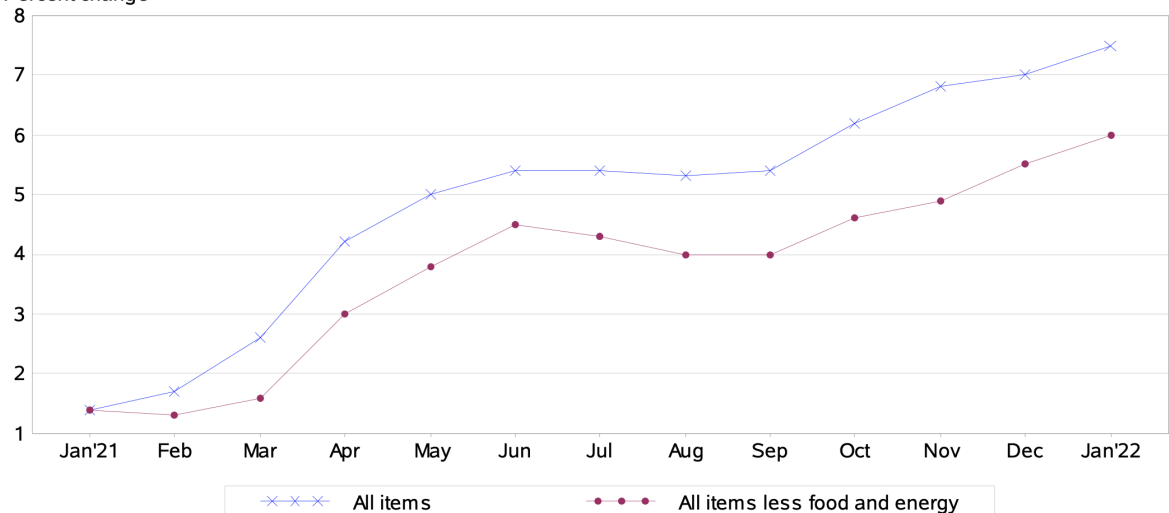
and...

"The all items index rose 7.5 percent for the 12 months ending January, the largest 12-month increase since the period ending February 1982.”

In January of 2021 the inflation rate was between a normal 1% to 2% percent but has gradually been increasing every month to 7.5% percent.

Again, this is the *largest inflation increase in 40 years*. See BLS chart below:

**Chart 2. 12-month percent change in CPI for All Urban Consumers (CPI-U), not seasonally adjusted, Jan. 2021 - Jan. 2022**  
Percent change



On November 11, 2021<sup>2</sup>, GEO also submitted a similar Notice in *Phonorecords IV* (at 6.2% percent) and on December 16, 2021, two similar Notices<sup>3</sup> in both *Phonorecords III* (remand) and *Phonorecords IV* (at 6.8% percent) regarding

<sup>2</sup> <https://app.crb.gov/document/download/25918> Nov 11, 2021, GEO's *Notice of Increased Monetary Inflation of 6.2% Percent Over Last Year — Phonorecords IV*.

<sup>3</sup> <https://app.crb.gov/document/download/25976> December 16, 2021, George Johnson's ("GEO") *Notice of Increased Monetary Inflation of 6.8% Percent CPI-U over Last Year by BLS*, submitted in *Phonorecords IV* (and also *Phonorecords III* <https://app.crb.gov/document/download/25982>).

the 2 previous BLS monthly CPI-U inflation data (CPI-U or All Items CPI for All Urban Consumers). GEO also filed two similar Notices<sup>4</sup> in both proceedings on January 12, 2022 (at 7.0% percent).

On January 6, 2022 GEO filed duplicate Motions<sup>5</sup> in both proceedings to respectfully ask relief by requesting Your Honors index Subpart C (old Subpart B) interactive streaming rates to CPI-U inflation, just as the CRB has recently determined in other rate proceedings — with the exception of a possible retroactive adjustment.

Those duplicate Motions were denied on January 24, 2022<sup>6</sup> for generally being a rate proposal in motion form, but Your Honors did instruct me that I may be eligible to file this Subpart C (old Subpart B) streaming inflation indexing proposal in my upcoming *Phonorecords IV* Amended Written Direct Statement, which I appreciate and am currently completing.

Since I did not file a Subpart C (at the time Subpart B) streaming inflation indexing proposal in my original *Phonorecords III* Written Direct Statement, I realize it is generally out of place in the remand<sup>7</sup>. As a non-lawyer, I was not sure if

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<sup>4</sup> <https://app.crb.gov/document/download/26037> January 12, 2022, *George Johnson's ("GEO") Notice of Increased Monetary Inflation of 7.0% Percent CPI-U over Last Year by BLS*

<sup>5</sup> <https://app.crb.gov/document/download/26013> January 6, 2022, *GEO's Motions to Index Subpart B Interactive Streaming Rates to BLS CPI-U Inflation Rates in Both Proceedings (2nd Corrected). Phonorecords III (and IV)*

<sup>6</sup> <https://app.crb.gov/document/download/26045> January 24, 2022, *Order on GEO Motion Regarding Indexing Rates.*

<sup>7</sup> Another reason why I requested no time in upcoming closing arguments in the *Phonorecords III* (remand).

the Motions would be successful or not, and of course, I am always hoping for a *sua sponte* Order whenever possible.

Additionally, I was just made aware that NMPA *did* include a Subpart C streaming inflation indexing proposal<sup>8</sup> in their *Phonorecords IV* Written Direct Statement, *which I am very glad to hear*. I would join with NMPA and RIAA on this one single issue if allowed, and their proposal seems to be exactly the same as the indexing Your Honors determined in *Web IV*<sup>9</sup>, and other recent rate proceedings.

With that said, as inflation continues to rise, I will respectfully continue to file these Notices for the record in both proceedings, but also as a reminder of how current national monetary inflation is an extremely significant issue and a reasonable one to raise in these proceedings, especially retroactively in the *Phonorecords III* (remand) and as applied to the 9.1 cent mechanical rate in *Phonorecords IV*.

While my recent Motion to index streaming was denied in the *Phonorecords III* (remand), I would still respectfully request that Your Honors please find a way to legally determine a retroactive inflation adjustment to the Subpart C streaming (old Subpart B) in this *Phonorecords III* (remand) from either 2018 to 2022, or from the very beginning in 2006.

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<sup>8</sup> <https://app.crb.gov/document/download/25858> See Page B-17, Item (6). October 20, 2021, (CORRECTED) Volume 1 - Copyright Owners' Introduction to the Written Direct Statement.

<sup>9</sup> <https://app.crb.gov/document/download/25678> Web V Determination, July 22, 2021. A CPI-U inflation adjustment going forward for the webcasting of §114 digital sound recordings.

The good cause reason is the *rate has been frozen since then 2006*, just like the 9.1 cent mechanical rate, and all American songwriters and independent publishers should not *SUBSIDIZE trillion-dollar* corporations by carrying the costs of inflation on OUR balance sheets for 15 years, which we have *already done*.

Therefore, using government BLS evidence, GEO respectfully files this Notice to the CRB to demonstrate that national monetary inflation continues to rise at unprecedented levels, not seen since the late 1970's and 1980's, and in this case, at 7.5% percent over last year.

This 7.5% percent inflation rate negatively affects all Americans, but also *all* American songwriters and music publishers *subject to* the compulsory licenses, microscopic “nano-penny” statutory streaming rates, free unlimited “limited downloads”, sales substitution/cannibalization, free promotional giveaways, *et al.*, under §115 and §385 Subparts B, C, D and Subpart B Configurations.

On October 13, 2021, GEO proposed a retroactive inflation adjustment to the frozen 9.1 cent mechanical royalty rate in my Written Direct Statement. I then proposed a yearly CPI-U indexing to the 9.1 cent mechanical going forward — exactly as this Panel determined in the most recent *Web V* rate proceeding.

## **RECENT CRB RATE COURT PRECEDENT OF COLA INDEXING**

The following are the most recent Cost of Living Adjustments (“COLA”) or CPI-U indexing by the CRB:

GEO also argues that the following CPI-U adjustments are now *rate court precedent*:

1. the *Web IV*<sup>10</sup> Final Determination indexing on October 27, 2021.
2. for Public Broadcasting<sup>11</sup> and SESAC on November 23, 2021.
3. for Satellite Carriers<sup>12</sup> a 6.2% COLA adjustment on November 26, 2021.
4. the Webcaster Statutory License<sup>13</sup> COLA adjustment on December 1, 2021, indexing royalty rates for the public performance of and for the making of ephemeral reproductions of sound recordings.

We hope that this inflation indexing by the CRB in other rate proceedings is a good sign that Your Honors will also index the *Phonorecords IV*, and possibly *Phonorecords III* (remand), streaming rates to CPI-U inflation. GEO also prays Your Honors will index the 9.1 cent mechanical rate to CPI-U inflation as well.

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<sup>10</sup> <https://www.govinfo.gov/content/pkg/FR-2021-10-27/pdf/2021-20621.pdf> *Web IV* inflation adjustment by CRB using CPI-U on October 27, 2021.

<sup>11</sup> <https://www.govinfo.gov/content/pkg/FR-2021-11-23/pdf/2021-25443.pdf> Federal Register, November 23, 2021. Public Broadcasting and SESAC.

<sup>12</sup> <https://www.govinfo.gov/content/pkg/FR-2021-11-26/pdf/2021-25719.pdf> Federal Register, November 26, 2021. Satellite Carriers 6.2% COLA adjustment

<sup>13</sup> <https://www.govinfo.gov/content/pkg/FR-2021-12-01/pdf/2021-26062.pdf> Federal Register, December 1, 2021. Webcaster Statutory License

Since both *Phonorecords III* and *IV* rate proceedings are connected, GEO is continuing to file this duplicate Notice in both proceedings.

There is no good explanation for why American songwriters should bear the cost of inflation retroactively but then be compensated by indexing going forward — especially poor American songwriters at \$.00012 cents per-stream with no sales, subsidizing trillion-dollar corporations and billion-dollar foreign corporations.

Lost inflation, or frozen streaming rates for 15 years is just another way all American songwriters have been SUBSIDIZING these billion and trillion-dollar monopolies under a compulsory license at literally ZERO cents per stream.

As comedian Ricky Gervais recently said about the huge decline in Golden Globe Awards ratings, but also plummeting Grammys and Oscar ratings, he said it's because “*people with nothing became tired of being lectured by people who had everything*”<sup>14</sup>.

The same applies to all 5 of the Services in this proceeding — which includes literally 3 of the *largest corporations* and *monopolies* in the world — Participants Google, Amazon, and Apple. I've been a huge fan of Apple and Mr. Steve Jobs since I got ahold of a Macintosh computer in 1984, so I truly mean no offense when I bring this issue up, but it's just a *practical reality* and if you are not on my side of

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<sup>14</sup> <https://www.express.co.uk/celebrity-news/1547178/ricky-gervais-virtue-signalling-celebs-golden-globes-after-life-latest-news> January 09, 2022, The Express UK, Ricky Gervais

the equation, it's almost impossible to empathize with or even comprehend how horrible it truly is to be an American songwriter<sup>15</sup> in 2022.

But if you are on the other side, it's \$2 million-dollar salaries per year, all expenses paid, big parties, award shows honoring Taylor Swift, super yachts, space rockets, and \$2,000 an hour for counsel over 2 (or 6) years — again no offense from a lowly “outlier” like myself.

Just look at what the “streaming access model” did to genius songwriter Hugh Prestwood's life (and incomes of countless other genius songwriters like Mr. Dewayne Blackwell, Mr. Larry Henley, and Mr. Mentor Williams, and on and on who's royalties dropped over 90%) and tell me how “streaming saved the industry” with “free promotion” and all that gaslighting fraud and double-speak.

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<sup>15</sup> <https://www.rollingstone.com/music/music-country/hugh-prestwood-country-songwriter-homeless-1289233/> The genius songwriter Mr. Hugh Prestwood, who wrote one of my favorite songs of all time, “The Song Remembers When” (which btw perfectly rhymes and genius songwriter Dewayne Blackwell loved Hugh Prestwood's songwriting) is almost homeless thanks to everyone in this rate proceeding!

“When you grow up with the mindset that your royalties were going to be able to help you fund your senior years and then that suddenly went away, that's a harsh reality.” - songwriter James Dean Hicks.

Note: I have to say that this really hits a nerve with me as person, songwriter and citizen. We can easily blame him, we can blame the “changing music industry”, we can say to ourselves “that's life” or “oh well”, but the root cause is **price-fixing all American songwriters under a 1909 compulsory license at \$.000 nano-rates by force**, in an alleged free country.

It's time to **start voluntarily negotiating in actual good faith with American songwriters** and independent publishers in these proceedings where we can actually **profit** — and that means the Services, but also NMPA, NSAI, RIAA and the 3 Foreign Headquartered Major Record Labels who are selling out their own songwriters by freezing them at the 9.1 cents (really 5.4 cents in 2022 value), keeping a \$.000 rate structure instead of a dollar or sales/streaming structure like Apple TV or Amazon Prime Video, etc., giving away free unlimited “limited downloads” with **no regard to property rights**, and on and on.



“In the end, Prestwood says he’s not resentful of the music industry for failing him. Rather, he’s resigned and dismayed at what has become of the line of work to which he devoted his life. And he has a word of caution: **“I would not recommend that anybody go into songwriting.”**

That is heartbreaking to read, but very true, since who can survive on \$.00012 cents per song with no sales? Nobody.

And *all* the blame rests on the Participants in this rate proceeding, and a few from past *Phonorecords* proceedings since 2006, like the Google funded, Digital Music Association (“DiMA”).<sup>16</sup>

As Austin music attorney Mr. Chris Castle, and official Commenter in these proceedings, recently wrote on songwriter Mr. David Lowery’s excellent blog and website The Trichordist:

“The Copyright Royalty Judges need to understand that there are real consequences to real people when they freeze mechanical royalties. While the Judges are not responsible for all the harms that accrue to songwriters in the rigged statutory licensing and royalty scheme, they do play a part and they can make a difference. Songwriters may not expect the Judges to fix their problems, but they do expect them not to make it worse. Freezing rates for 15 years makes it worse.

The Judges should also understand that they have an opportunity to do something to add fairness back into the system that the Judges effectively control. Creators like Hugh and Judy will never appear in their courtroom alongside the well-heeled lobbyists and lawyers who make millions off of the rate proceedings and the black box in what has become a laughingstock.

Congress, too, needs to listen up. It is well past time for a songwriter advocate to be a permanent part of the Copyright Royalty Board proceedings for mechanical royalty rate settings. A songwriter advocate would speak for

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<sup>16</sup> <https://thetrichordist.com/author/theinvisiblestagehand/> by attorney Mr. Chris Castle.

people like Hugh and Judy. As Linda said of Willie Lohman in *Death of a Salesman*, “Attention must be paid.” I’m not asking that songwriters should be able to overrule the lobbyists, although that’s not a bad idea.

But at least hear them out before they’re all gone.”

GEO does agree with Mr. Castle and prays Your Honors will help us and not let other Participants hurt us any longer in these proceedings.

I also agree with his excellent observation that individual songwriters should be able to overrule \$2 million dollar a year lobbyists who are only looking out for *their own self-interests* — and that is another practical reality of these proceedings I pray Your Honors will take a strong look at and weigh as a motivation for Participating in all 4 *Phonorecords* proceedings since 2006.

I don’t get paid to be in these proceedings and I’m the only songwriter participant in these proceedings. Just because I don’t have a yearly \$2 million dollar salary (\$166,666.00 per month), plus a team of well-heeled and well-funded lawyers, does not mean my issues and proposals are not as important as theirs.

I’m an actual copyright owner and *creator*, and the person these proceedings are supposed to benefit, not super-rich lobbyists or 3 foreign headquartered vertically integrated corporations.

In fact, my rights to my copyright and property are embedded in the U.S. Constitution and are more important than some Swedish corporation’s *temporary* business model that *will* one day go of business — but *songs last forever*.

You have foreign billionaire investors and trillion-dollar monopolies, using a 1909 compulsory license to pay all American songwriters \$.00012 cent per song in 2022 by *transferring the value of that song* from the copyright owners to their stock holders.

That is the true “value gap”.

Add inflation and it’s just another way *all* American songwriters and publishers are squeezed, with *no profits* and no allowance by the CRB for their most basic “costs of goods sold” — but the Services’ “costs of goods sold” are of the upmost importance to recognize to preserve their so called business model — which is pure crony corporatism, while abusing a horse and buggy compulsory license, and the combination of all of it, has nothing to do with capitalism or free markets, which the CRB is required to emulate.

The other practical reality of the compulsory license and Soviet-style government price-fixing at way below-market rates, whether it be by statute solely, or with a CRB styled Panel the past 40 years, **is songwriters went from 2 cents in 1909 to \$.00012 cents in 2022**<sup>17</sup> and that is one hell of a reality to bear when you are on *this side* of a Nobel Peace Prize economist’s equation.

While my Motions were denied and this is a Notice, GEO is still requesting relief *exactly* like the CPI-U inflation adjustment the CRB determined in *Web V* for Subpart B and C rates in *Phonorecords IV*, with the only difference being a possible

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<sup>17</sup> I realize one is sales and one is “access”, but access cannibalized sales.

*retroactive* inflation adjustment to the Subpart C streaming rates in *Phonorecords III* from 2018 or hopefully from the beginning in 2006.

Additionally, GEO agrees with Your Honors' *Web V* finding located in footnote (356) on Page 300, whereby streaming rates that are adjusted based on the CPI-U "are clearly preferable to rates that are frozen arbitrarily for the duration of the five-year rate term."

"(356)...The Judges find that rates adjusted based on the CPI-U are clearly preferable to rates that are frozen arbitrarily for the duration of the five-year rate term."

Hopefully, this is now *rate court precedent* to be applied in both *Phonorecords* proceedings.

A CPI-U inflation indexing of musical works is also completely reasonable since *all* American songwriters are under a 113 year old *compulsory license* and forced to accept \$.00012 cents per-stream, with relatively no sales or downloads<sup>18</sup>, and with no other form of non-performing songwriter income.

As the Judges alluded to in your January 24, 2022 *Order on Geo Motion Regarding Indexing Subpart B Rates*, GEO expects no response to these monthly Notices. "This Notice requires no responsive action on the part of any participant or the Judges."

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<sup>18</sup> Primarily due to the *substitution effect* of streams substituting for sales, but also 15 years of NMPA's "voluntary agreements" to freeze the 9.1 cent royalty rates — while inflation also effectively lowers the rate from 9.1 cents in 2006 to 5.4 cents in value in 2022.

Again, these Notices are filed to formally enter this government data into the official CRB record and also as a reminder to us all that national monetary inflation is not as “transitory”<sup>19</sup> as other government officials would like us to believe.

According to one former government economist<sup>20</sup>, and many other economists, inflation is here to stay for a while. We pray Your Honors will take notice of this inflation not only for Subpart C streaming rates but for Subpart B mechanical rates at 9.1 cents for vinyl, tapes, CD’s, and downloads.

In conclusion, GEO thanks Your Honors and will include a standard Subpart C interactive streaming indexing proposal in my future *Phonorecords IV* Amended Written Direct Statement by the March 8, 2022 deadline.

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<sup>19</sup> <https://www.washingtonpost.com/business/2021/12/09/inflation-fed-transitory-powell/> December 19, 2021. The Washington Post. *The Fed’s inflation challenge: Getting the policy and the messaging right.* “The uncertainty at Scott Lighting Supply Co. is, in many ways, at the root of the Federal Reserve’s shift in how it has been talking about inflation. For much of the year, the Fed and its leaders maintained that price increases would be “transitory,” or temporary, and more limited to sectors hit hard by the pandemic. Over time, that message was increasingly hard to square with data surfacing in the economy. Some Fed watchers also say the message appeared out of touch with the wider public, because “transitory” gives the impression that rising prices would be short-lived.”

<sup>20</sup> <https://news.harvard.edu/gazette/story/2022/02/pandemic-only-partly-to-blame-for-record-inflation-says-lawrence-summers/> February 4, 2022, The Harvard Gazette, *Summers says pandemic only partly to blame for record inflation.*

Respectfully,

By: /s/ George D. Johnson

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Friday, February 11, 2022

# Proof of Delivery

I hereby certify that on Friday, February 11, 2022, I provided a true and correct copy of the GEORGE JOHNSON'S (GEO) NOTICE OF INCREASED MONETARY INFLATION OF 7.5% PERCENT CPI-U OVER LAST YEAR IN BLS IN BOTH PROCEEDINGS to the following:

Nashville Songwriters Association International, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Amazon.com Services LLC, represented by Scott Angstreich, served via ESERVICE at sangstreich@kellogghansen.com

Google LLC, represented by David P Mattern, served via ESERVICE at dmattern@kslaw.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

National Music Publishers' Association (NMPA) et al, represented by Benjamin Semel, served via ESERVICE at Bsemel@pryorcashman.com

Spotify USA Inc., represented by Richard M Assmus, served via ESERVICE at rassmus@mayerbrown.com

Signed: /s/ George D Johnson